

Supreme Court Issues
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February 9, 2021

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- Trial—Due Process—Fair Trial—Implicit Bias—Motion for New Trial—Evidentiary Hearing—Necessity.
- *Unlawful Detainer—Lease—Expiration—COVID-19—Centers for Disease Control—Eviction Moratorium—Applicability.
- Zoning and Planning—Nonconforming Uses—Continuance of Use—Establishment of Existence of Use—Marijuana Production and Processing Business.

Cases Not Yet Set

***Appeal and Error—Capacity or Right to Sue or Defend—Persons Entitled to Sue—Objection at Trial—Necessity**

Whether a party's standing may be challenged for the first time on appeal.

No. 99071-9, *Williams* (petitioner) v. *Traffic Solutions, Inc.* (respondent). (See also: [Courts—Remedies—Nature and Form—Class Action—Challenge to Claimed System-Wide Speed Zone Violation—Vacation of Traffic Infraction—Necessity](#))

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***Courts—Remedies—Nature and Form—Class Action—Challenge to Claimed System-Wide Speed Zone Violation—Vacation of Traffic Infraction—Necessity**

Whether a class action may be brought in superior court challenging a city's speed limit zone claimed to be unlawful without individual plaintiffs first seeking to vacate their infraction judgments in municipal court.

No. 99071-9, *Williams* (petitioner) v. *Traffic Solutions, Inc.* (respondent). (See also: [Appeal and Error—Capacity or Right to Sue or Defend—Persons Entitled to Sue—Objection at Trial—Necessity](#)).

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Criminal Law—Evidence—Search and Seizure—Consent Search of Cell Phone—Use of Text Messages in Subsequent Communication—Trespassory Invasion of Privacy

Whether police committed a “trespassory invasion” of privacy by sending unwanted texts to the defendant’s phone while impersonating someone else.

No. 99062-0, *State* (petitioner/cross-respondent) *v. Bowman* (respondent/cross-petitioner). (See also: [Criminal Law—Evidence—Search and Seizure—Consent Search of Cell Phone—Use of Text Messages in Subsequent Communication—Third Party](#), [Criminal Law—Legal Financial Obligations—Indigent Defendant—Community Custody Supervision Fees—Validity—Interest](#)).

[14 Wn. App. 2d 562 \(2020\)](#).

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Criminal Law—Evidence—Search and Seizure—Consent Search of Cell Phone—Use of Text Messages in Subsequent Communication—Third Party

Whether in this controlled substance prosecution, police violated the defendant’s constitutional right to privacy in communications by sending text messages to him from a separate phone impersonating someone to whom the defendant had previously sold drugs, using information obtained with third party consent from another cell phone.

No. 99062-0, *State* (petitioner/cross-respondent) *v. Bowman* (respondent/cross-petitioner). (See also: [Criminal Law—Evidence—Search and Seizure—Consent Search of Cell Phone—Use of Text Messages in Subsequent Communication—Trespassory Invasion of Privacy](#), [Criminal Law—Legal Financial Obligations—Indigent Defendant—Community Custody Supervision Fees—Validity—Interest](#)).

[14 Wn. App. 2d 562 \(2020\)](#).

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Criminal Law—Legal Financial Obligations—Indigent Defendant—Community Custody Supervision Fees—Validity—Interest

Whether in this criminal prosecution the trial court improperly required the offender to pay community custody supervision fees though the court found the offender indigent, and whether the judgment and sentence improperly imposed interest on legal financial obligations.

No. 99062-0, *State* (petitioner/cross-respondent) v. *Bowman* (respondent/cross-petitioner). (See also: Evidence—Search and Seizure—Consent Search of Cell Phone—Use of Text Messages in Subsequent Communication—Third Party, Criminal Law—Evidence—Search and Seizure—Consent Search of Cell Phone—Use of Text Messages in Subsequent Communication—Trespassory Invasion of Privacy).

14 Wn. App. 2d 562 (2020).

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Criminal Law—Obstruction of Justice—Obstructing Law Enforcement Officer—Home Entry—Willful Refusal to Allow Entry—Community Caretaking Function—Validity

Whether the State validly prosecuted a defendant for obstruction of justice when the defendant refused to open his residence to police seeking to make a warrantless entry based on a report of domestic violence.

No. 98622-3, *State* (respondent) v. *Jenkins* (petitioner).

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Criminal Law—Plea of Guilty—Plea Bargaining—Breach by State—Duty of State—Implied Duty of Good Faith and Fair Dealing—Applicability

Whether in this criminal prosecution the State violated its duty of good faith and fair dealing in plea bargaining when it agreed to recommend a mid-standard-range sentence but included in its sentencing memorandum several facts that support an aggravated sentence.

No. 98864-1, *State (petitioner) v. Molnar (respondent)*.

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***Criminal Law—Residential Burglary—Lesser Included Offense—First Degree Criminal Trespass—Jury Instructions—To-Convict Instruction—Instruction Defining “Knowledge”—Conflict—State’s Burden of Proof**

Whether in this prosecution involving first degree criminal trespass as a lesser included offense, the jury instruction defining “knowledge,” which stated that the defendant need not know that a fact was defined by law as being unlawful, conflicted with the “to-convict” instruction on criminal trespass, which stated that the defendant had to know that entering or remaining in a building was unlawful, relieving the State of its burden to prove that the defendant knew he was entering or remaining unlawfully.

No. 99041-7, *State (respondent) v. Weaver (petitioner)*.

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***Declaratory Judgment—Common Interest Communities—Covenants—Corporations and Business Organizations—Business Judgment Rule—Applicability—Assessment Structure—Reasonableness**

Whether in this declaratory action against a homeowners' association involving fee assessments, the reasonableness of the association's adoption of a particular assessment structure depends not only on the process employed and facts considered to reach that decision, but also on the substance of the decision, and whether the business judgment rule may be applied to limit the liability of a corporation such as the association.

No. 99138-3, *Surowiecki (petitioner) v. Hat Island Cmty. Ass'n., et al.* (respondents).

14 Wn. App. 2d 718 (2020).

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***Employment—Safe Workplace—Employer of Temporary Worker—Duty of Referring Agency**

Whether a temporary worker staffing agency may be cited under the Washington Industrial Safety and Health Act for workplace safety violations that occur at a client work site.

99031-0, *Dep't of Labor & Indus. (petitioner) v. Tradesmen Int'l, LLD* (respondent);

Consolidated with

99032-8, *Dep't of Labor & Indus. (petitioner) v. Laborworks Indus. Staffing Specialists* (respondent).

14 Wn. App. 2d 168 (2020).

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Indians—Federal Treaties—Water Law—Water Rights and Management—Tribal Water Rights on Reservation—Diversion of Water to Particular Parcels

Whether, in these consolidated water rights cases, the trial court misinterpreted federal treaties and federal law in entering an order and schedule of rights restricting the number of acres on the Yakama Reservation that may be irrigated with water diverted from the Yakima River, or otherwise erred in restricting the affected parties' surface water use.

No. 99373-4, *Wash. Dep't of Ecology* (petitioner) v. *Acquavella, et al.* (respondents).

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***Infants—Termination of Parental Rights—Case Title—Changing Title in Court of Appeals—Use of Parents' Full Names in Case Title—Open Courts—Right to Privacy**

Whether in this action to terminate parental rights, court rules and open courts principles allowed the Court of Appeals to unilaterally change the case title as used in the trial court to include the mother's full name.

No. 98965-6, *In re the Welfare of K.D.*

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Insurance—Consumer Protection—Acts of Insurer—Right of Action—Filed Rate Doctrine—Effect—Applicability

Whether in this action claiming that a mortgage lender overcharged for force-placed insurance, the filed rate doctrine applies to shield the defendant from liability because it passed through to the borrower the rate approved by a governing regulatory agency.

No. 99377-7, *Alpert* (plaintiff-appellant) v. *Nationstar Mortg., LLC & Harwood Serv. Co.* (defendants-appellees) and *Am. Sec. Ins. Co.* and *Guaranty Ins. Co.* (defendants).

Certified from U.S. Court of Appeals, 9th Circuit.

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***Landlord and Tenant—Actions—Forcible Entry and Detainer—Availability—Early Termination of Lease**

Whether unlawful detainer under [RCW 59.12.030\(1\)](#) is available to the owner of leased premises who exercises a right under the lease agreement to early termination.

No. 99180-4, *Spokane Airport Bd. (petitioner) v. Experimental Aircraft Ass’n Chapter 79 (respondent)*.

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***Personal Restraint—Prisons—Conditions—Cruel Punishment—COVID-19**

Whether the conditions of confinement for an elderly inmate in poor health constitute cruel punishment in violation of article I, section 14 of the Washington Constitution in light of the ongoing COVID-19 pandemic.

No. 99344-1, *In re Pers. Restraint of Williams* (petitioner).

[476 P.3d 1064 \(2020\)](#).

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***Statutes—Elections—Counties—Ballot Drop Boxes— State Reimbursement—Unfunded Mandate—Revision—Amendment by Reference—Prohibition**

Whether in this declaratory action involving [RCW 29A.40.170\(2\)](#), which requires Washington counties to install, maintain, and operate a certain number of ballot drop boxes; [RCW 43.135.060](#), the “unfunded mandate” statute; [RCW 29A.04.410 through .430](#) and a recent related amendment concerning state reimbursement of election costs incurred by counties; and article II, section 37 of the Washington Constitution, which prohibits amending a statute by reference to its title; respondent counties are entitled to full reimbursement from the State for costs incurred in installing and maintaining the required election drop boxes.

No. 99230-4, *Wash. State Ass’n of Counties, et al. (respondents) v. State* (appellant).

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Statutes—Standing—Representational Standing—Taxation—Business and Occupation Tax—Surtax—Validity—Dormant Commerce Clause

Whether respondents had standing to challenge [RCW 82.04.29004](#), which imposes an additional business occupation tax on certain financial institutions, and if so, whether the statute discriminates in effect and in purpose against interstate commerce in violation of the dormant commerce clause of the United States Constitution.

No. 98760-2, *Wash. Bankers Ass’n, et al.* (respondents) v. *State, et al.* (appellants).

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Statutes—Veto—Partial or Item Veto—“Section”—Legislative Designation—Effect—Appropriation Items—What Constitutes—Budget Provisos—Appropriation—Validity—Substantive Law

Whether under article III, section 12 of the Washington Constitution, the governor lacked authority to veto seven provisions within a section of the legislature’s 2019-2021 transportation budget, all of them prohibiting the Department of Transportation from considering fuel type in selecting recipients of department grants, because each vetoed provision is less than an entire section, the provisions are not appropriation items subject to the line-item veto, and the provisions do not constitute improper substantive law within the budget bill.

No. 98835-8, *Wash. State Legislature* (respondent) v. *Inslee* (appellant).

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***Unlawful Detainer—Lease—Expiration—COVID-19—Centers for Disease Control—Eviction Moratorium—Applicability**

Whether in this unlawful detainer action a tenant whose lease has expired may claim the protections of a temporary eviction moratorium ordered by the Centers for Disease Control in response to the COVID-19 emergency.

No. 99249-5, *Nyman* (respondent) v. *Hanley, et al.* (appellants).

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Automobiles—Automobile as Living Place—Impoundment—Fine—Excessiveness

Whether towing and impound fees and costs imposed on a person living in their illegally parked vehicle were excessive or otherwise unconstitutional.

No. 98824-2, *City of Seattle* (respondent/cross-petitioner) v. *Long* (petitioner/cross-respondent). (Oral argument 3/16/21). (See also: [Automobiles—Automobile as Living Place—Impoundment—Homestead Act—Applicability—Failure to File Declaration of Homestead—Effect](#)).

[13 Wn. App. 2d 709 \(2020\)](#).

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Automobiles—Automobile as Living Place—Impoundment—Homestead Act—Applicability—Failure to File Declaration of Homestead—Effect

Whether the Homestead Act bars the city of Seattle from threatening a forced sale of an impounded vehicle if the owner was living in the vehicle but did not file a declaration that the vehicle was used as a homestead.

No. 98824-2, *City of Seattle* (respondent/cross-petitioner) v. *Long* (petitioner/cross-respondent). (Oral argument 3/16/21). (See also: [Automobiles—Automobile as Living Place—Impoundment—Fine—Excessiveness](#)).

[13 Wn. App. 2d 709 \(2020\)](#).

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Boundaries—Determination—Artificial Monuments and Marks—Maps, Plats, and Field Notes—Surveys—Retracement Survey—Expert Evidence—Rebuttal Expert Evidence—Necessity

Whether in this quiet title action involving a boundary dispute, expert testimony is required to rebut expert evidence establishing the boundary line through a retracement survey.

No. 98694-1, *Rinehold, et ux.* (petitioners) v. *Renne, et al.* (respondents). (Oral argument 2/18/21).

[Unpublished.](#)

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Coroners—Inquest—Procedures—County Executive—Executive Order—Validity—County Charter—State Constitution—Scope of Inquests

Whether the King County executive had authority under the King County Charter, consistent with article XI, section 4 of the Washington Constitution, to establish by executive order new procedures for the conduct of inquests into the causes and circumstances of deaths involving law enforcement officers within the county, and if so, whether the procedures the executive established are within the proper scope of inquests.

No. 98985-1, *Family of Damarius Butts* (respondents/cross-appellants) v. *Constantine, et al.* (appellants/cross-respondents). (Oral argument 1/19/21).

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Courts—Supreme Court—Jurisdiction—Original Jurisdiction—Extraordinary Writs—State Officers—What Constitutes—Municipal Court Judges—Authority of Presiding Judge—Transfer and Consolidation of Criminal Cases

Whether the presiding judge of a municipal court is a “state officer” over whom the Washington Supreme Court has original jurisdiction for purposes of a petition for a writ of prohibition or mandamus under Washington Constitution Article IV, §4, and if so, whether a presiding judge of the municipal court has authority to transfer and consolidate multiple district court criminal cases concerning the same defendant into one municipal department before a single judge.

No. 98319-4, *Ladenburg* (petitioner) v. *Henke* (respondent). (Oral argument 2/11/21).

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Criminal—Misdemeanor—Complaint—Citizen Affidavit—Statute of Limitations

Complaint—Initiation—

Whether the filing of an affidavit in support of a citizen’s misdemeanor complaint under CrRLJ 2.1(c) is sufficient to initiate a criminal action for purposes of the statute of limitations.

No. 98613-4, *In re Citizen Complaint by: Stout* (petitioner) v. *Felix* (respondent). (Oral argument 3/9/21).

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Criminal Law—Controlled Substances—Delivery—Punishment—Sentence—Enhancement—School Bus Stop—“School Bus”—Proof—Necessity

Whether in this prosecution for delivery of a controlled substance in which the State alleged that the delivery occurred within 1,000 feet of a school bus stop, the State had to prove that a vehicle meeting the definition of “school bus” actually used the designated stops identified by the State’s witnesses.

No. 98973-7, *State* (respondent) v. *Anderson* (petitioner). (Oral argument 2/25/21).

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Criminal Law—Criminal Trespass—Unlawful Obstruction of a Train—Necessity Defense—Availability

Whether in this prosecution for second degree criminal trespass and unlawful obstruction of a train stemming from an environmental protest, the defendant was entitled to assert a necessity defense.

No. 98719-0, [State \(respondent\) v. Spokane County Dist. Court & Taylor \(petitioners\)](#). (Oral argument 2/18/21). (See also: [Judges—Impartiality—Bias and Prejudice—Appearance of Fairness—Judicial Disqualification](#)).

[13 Wn. App. 2d 573 \(2020\)](#).

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Criminal Law—Right to Counsel—Ineffective Assistance of Counsel—Strategy and Tactics—Evidence—Other Acts and Offenses—Hearsay Statements—Opinion on Guilt—Testimony that Witnesses Were Threatened—Failure to Object—Prejudice

Whether in this prosecution for maintaining a drug dwelling, possession of methamphetamine with intent to deliver, and possession of drug paraphernalia, defense counsel was prejudicially ineffective in failing to object to the admission of the defendant’s criminal history for similar crimes; in failing to object to hearsay testimony about the defendant’s prior bad acts and police officer opinion testimony about the defendant’s guilt; and in failing to object to testimony that witnesses were threatened for their participation in the case.

No. 98928-1, [State \(respondent\) v. Vazquez \(petitioner\)](#). (Oral argument 3/11/21).

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Criminal Law—Severance—Denial—Evidence of Other Offense—Cross-Admissibility—Consciousness of Guilt

Whether the trial court in this criminal prosecution properly denied severance of a bail jumping charge from a charge of violating a no contact order on the basis that evidence of bail jumping was cross-admissible on the no contact charge as evidence of consciousness of guilt.

No. 98795-5, [State \(respondent\) v. Slater \(petitioner\)](#). (Oral argument 2/16/21). (*See also*: [Criminal Law—Trial—Misconduct of Prosecutor—Argument—Defendant’s Absence from Trial—Consciousness of Guilt—Personal Opinion on Guilt](#)).

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Criminal Law—Trial—Misconduct of Prosecutor—Argument—Defendant’s Absence from Trial—Consciousness of Guilt—Personal Opinion on Guilt

Whether in this prosecution for violating a no contact order, the prosecutor’s repeated argument in closing that the defendant’s failure to previously appear for trial constituted flight evidence reflecting consciousness of guilt or constituted an improper direct comment on the defendant’s guilt.

No. 98795-5, [State \(respondent\) v. Slater \(petitioner\)](#). (Oral argument 2/16/21). (*See also*: [Criminal Law—Severance—Denial—Evidence of Other Offense—Cross-Admissibility—Consciousness of Guilt](#)).

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Indians—Juveniles—Parental Relationship—Dependency—Indian Child Welfare Act—Provision of Remedial and Rehabilitative Services—“Active Efforts”—Sufficiency—Parent’s Stipulation to Sufficiency—Effect

Whether in this dependency proceeding involving Indian children, a parent, by signing an agreed dependency review order stating that the State has made “active efforts” to provide services to prevent breakup of the Indian family as required by the federal Indian Child Welfare Act and its Washington counterpart, waives the right to challenge whether the State has met the active efforts requirement, and if not, whether the State made active efforts in this case.

No. 98554-5, *In re the Dependency of G.J.A., A.R.A., S.S.A., J.J.A., and V.A.* (Oral argument 2/11/21).

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Insurance—Settlement by Insured—Release of Tortfeasor—Requisites and Validity of Settlement or Release—Hearing—Evidence—Sufficiency

Whether, in this case involving a covenant judgment entered by settlement between insureds and tortfeasors, sufficient evidence supports the trial court’s determination that the settlement agreement was reasonable.

No. 98791-2, *Wood (petitioners) v. Cincinnati Specialty Underwriters Ins. Co. (respondents)*. (Oral argument 2/23/21).

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Judges—Impartiality—Bias and Prejudice—Appearance of Fairness—Judicial Disqualification

Whether in granting the State’s ex-parte application for a writ of review of a district court pretrial ruling in this criminal prosecution, the superior court judge made a discretionary ruling precluding the defendant’s motion to disqualify the judge as of right.

No. 98719-0, *State (respondent) v. Spokane County Dist. Court & Taylor (petitioner)*. (Oral argument 2/18/21). (See also: [Criminal Law—Criminal Trespass—Unlawful Obstruction of a Train—Necessity Defense—Availability](#)).

[13 Wn. App. 2d 573 \(2020\)](#).

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Juveniles—Parental Relationship—Dependency—Right to Counsel—Appointed Counsel—For Child—Private Counsel—Appointment—Necessity

Whether privately retained counsel may appear on behalf of a dependent child in a dependency action without first being appointed by the superior court pursuant to [RCW 13.34.100\(7\)](#), which permits a court to appoint an attorney to represent the child.

No. 98596-1, *In re Dependency of E.M.* (Oral argument 1/19/21). (See also: [Juveniles—Parental Relationship—Dependency—Right to Counsel—Appointed Counsel—For Child—Private Counsel—Appointment—Rules of Professional Conduct—Consideration](#)).

[12 Wn. App. 2d 510 \(2020\)](#).

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Juveniles—Parental Relationship—Dependency—Right to Counsel—Appointed Counsel—For Child—Private Counsel—Appointment—Rules of Professional Conduct—Consideration

Whether in this dependency action where an attorney had been privately retained to represent the dependent child, the superior court properly considered the rules of professional conduct in deciding whether to appoint the attorney or strike the attorney’s notice of appearance.

No. 98596-1, *In re Dependency of E.M.* (Oral argument 1/19/21). (See also: [Juveniles—Parental Relationship—Dependency—Right to Counsel—Appointed Counsel—For Child—Private Counsel—Appointment—Necessity](#)).

[12 Wn. App. 2d 510 \(2020\)](#).

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Juveniles—Parental Relationship—Termination—Elements—Services “Reasonably Offered”—Parent’s Alleged Cognitive Impairments—Tailored Services—Professional Cognitive Assessment—Necessity

Whether, for purposes of supporting a petition to terminate a parent’s parental rights under chapter [13.34 RCW](#), the Department of Children, Youth, and Families, was required to prove that it provided or offered to provide a parent with alleged cognitive impairments a professional cognitive assessment.

No. 98905-2, *In re Termination of Parental Rights to M.A.S.C.* (Oral argument 3/16/21).

[Unpublished](#).

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Mental Health—Involuntary Commitment—Sexually Violent Predators—Less Restrictive Alternative—Revocation—Appeal—Decisions Reviewable—Final Judgment—Order of Commitment—Postcommitment Order

Whether a person found to be a sexually violent predator and granted a less restrictive alternative than secure detention may appeal as a matter of right from a subsequent revocation of the alternative.

No. 98904-4, *In re Det. of McHatton; State (respondent) v. McHatton (petitioner)*. (Oral argument 2/25/21).

[13 Wn. App. 2d 830 \(2020\)](#).

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Municipal Corporations—Public Contracts—Modification or Rescission—Cancellation or Termination of Contract—Cancellation for Convenience—Rights of Contractors—Right of City to Offset for Defective Work

Whether in this action for wrongful termination of a city public works contract, the trial court correctly determined that the city improperly terminated the contract for convenience rather than on the basis of the contractor's default, and if so, whether the city was entitled to an offset against the judgment for the contractor's defective work.

No. 98753-0, *City of Puyallup (petitioner) v. Conway Constr. Co. (respondent)*. (Oral argument 2/23/21). (See also: [Public Works Contracts—Costs and Fees—Prevailing Party—Necessity of Settlement Offer](#)).

[13 Wn. App. 2d 112 \(2020\)](#).

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Negligence—Premises Liability—Business Premises—Knowledge of Danger—Knowledge or Notice in General—Foreseeability Exception—Applicability

Whether in this premises liability action claiming injury from a slip on a wet floor in a retail establishment, the foreseeability exception to the requirement that the defendant have notice of the hazard applies, such that the plaintiff does not have to prove actual or constructive notice of the specific dangerous condition if the condition was reasonably foreseeable in light of the nature of the business.

No. 98726-2, *Johnson* (petitioner) v. *State of Wash. Liquor & Cannabis Bd.* (respondent). (Oral argument 3/9/21).

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Negligence—Wrongful Death—Duty—Existence—Breach of Duty—Proximate Causation

Whether, in this negligence action involving a wheelchair-bound adult who received certain care services in his private apartment and died in an accidental fire of unknown origin, the Department of Social and Health Services or Lewis Mason Thurston Area Agency on Aging owed the adult a protective duty of care, and whether the trial court erred in ruling on breach of duty and proximate causation as a matter of law.

No. 99243-6, *Turner* (appellant) v. *Wash. State Dep't of Soc. & Health Servs., et al.* (respondents). (Oral argument 3/11/21).

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Personal Injury—Premises Liability—Dog Bite—Landlord Liability to Tenant's Guest

Whether, in this lawsuit for personal injury inflicted when a dog belonging to a residential tenant bit a guest, the tenant's landlord may be liable under a premises liability theory.

No. 98221-0, *Blanco* (petitioner) v. *Sandoval* (respondent). (Oral argument 2/16/21).

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Public Works Contracts—Costs and Fees—Prevailing Party—Necessity of Settlement Offer

Whether a contractor suing for wrongful termination of a public works contract must make a pretrial settlement offer to qualify as a prevailing party at trial for purposes of recovering attorney fees under [RCW 4.84.260](#).

No. 98753-0, [City of Puyallup \(petitioner\) v. Conway Constr. Co. \(respondent\)](#). (Oral argument 2/23/21). (See also: [Municipal Corporations—Public Contracts—Modification or Rescission—Cancellation or Termination of Contract—Cancellation for Convenience—Rights of Contractors—Right of City to Offset for Defective Work](#)).

[13 Wn. App. 2d 112 \(2020\)](#).

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Trial—Due Process—Fair Trial—Implicit Bias—Motion for New Trial—Evidentiary Hearing—Necessity

Whether in this personal injury action, the trial court should have held an evidentiary hearing after the plaintiff, who is African American, moved for a new trial claiming that defense counsel, the court, and the jury displayed implicit racial bias.

No. 97672-4, [Henderson \(petitioner\) v. Thompson \(respondent\)](#). (Oral argument 3/16/21).

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**Zoning and Planning—Nonconforming Uses—Continuance of Use—
Establishment of Existence of Use—Marijuana Production and Processing
Business**

Whether a marijuana production and processing business established its right to continue operating as a valid nonconforming use notwithstanding a county ordinance prohibiting such businesses.

No. 98730-1, *Seven Hills, LLC, et al. (petitioner) v. Chelan County (respondent)*. (Oral argument 2/18/21).

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